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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,276	04/12/2004	James Alfred White		5667

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JAMES ALFRED WHITE
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PINEVILLE, LA 71360-2912

EXAMINER

PETERSON, KENNETH E

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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01/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/822,276	Applicant(s) WHITE, JAMES ALFRED	
	Examiner Kenneth Peterson	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The disclosure is objected to because of the following informalities:

The specification should be amended to make reference to the 3/8-16 threads.

This would not be new matter, since it was originally claimed.

Appropriate correction is required.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ross (2,464,993), who shows;

A means for slicing having a cutting element 9,

a blade support 4;

a means for supporting a potato being a potato supporting guide (20) having a first lock nut (left side, figure 1) via threads,

a means for rotating the potato having a drive support (5),

a drive spindle (22),

a means for manual rotation (24,25),

a drive nut guide (27,28,29) positioning a drive nut (32),

a means for driving with a drive element (34),

a common mounting element 3 having two counter stop elements (6) and 4 support elements (8).

Ross does not disclose a lock nut to hold the drive element (34) onto the spindle. Examiner takes Official Notice that it is ubiquitous for lock nuts to be employed to attach one element to another. For example, Ross himself teaches the use of lock nuts to hold an element on (20). It would have been obvious to one of ordinary skill in the art to have modified Ross by providing a lock nut to hold the drive element on, as suggested by Ross himself.

Ross does not disclose what standard he uses for his threading. However, one of ordinary skill in the art would know that the pitch of the threading would correlate to the thickness of the potato slice. Examiner takes Official Notice that there are a variety of thicknesses currently available in the potato chip market. Given this known desire to create various thickness potato chips, it would have been obvious to one of ordinary skill to have modified Ross by changing his threading to increase or decrease the chip thickness. Clearly within the acceptable range of experimentation is the 3/8-16 thread.

4. Applicant's arguments have been fully considered but they are not persuasive.

Applicant has successfully overcome the new matter rejection and the rejection under 35 USC 112.

Applicant argues that no one else has employed a 3/8-16 thread on their drive, and Applicant has conveyed the manner in which he arrived at this optimization. However, this does not change the fact that it is obvious to change the thread pitch to change the potato chip thickness.

In this case, there is an unexpected result (ability to use American Standard threading) and also an expected result (different chip thickness by changing thread pitch). Decisions in this situation are ruled by MPEP 716.02(c)(I and II), which states that the advantages of the unexpected result (it's cheaper) must be weighed against the advantages of the expected result (differing chip thickness). Examiner deems that the unexpected result *does not* outweigh the expected result, and thus the claimed device is obvious.

Furthermore, and importantly, Applicant's claims are not commensurate in scope with his arguments of unexpected results, as per MPEP 716.02(d). While Applicant has argued for pages about starting with an American Standard thread and grinding it and the advantages thereof, none of that is reflected on the claims. The claimed 3/8-16 thread potentially has within it's scope screw rods that do not have the unexpected benefit of reduced cost. For example, a screw rod with square or acme threads could be cast to be 3/8-16, and that would meet the claims and yet not have Applicant's unexpected benefits. Accordingly, Applicant's arguments cannot be given much weight.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Peterson whose telephone number is (571)272-4512. The examiner can normally be reached on Monday-Thursday, 7:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kenneth Peterson/

Primary Examiner, Art Unit 3724